

Amendment No. 5 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 Representative(s) Fasano offered the following:

**Amendment (with title amendment)**

On page 8, between lines 3 & 4, of the bill

insert:

Section 6. Paragraph (a) of subsection (4) of section 943.059, Florida Statutes, is amended to read:

943.059 Court-ordered sealing of criminal history records.--The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a

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1 certificate of eligibility for sealing pursuant to subsection  
2 (2). A criminal history record that relates to a violation of  
3 chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839,  
4 s. 893.135, or a violation enumerated in s. 907.041 may not be  
5 sealed, without regard to whether adjudication was withheld,  
6 if the defendant was found guilty of or pled guilty or nolo  
7 contendere to the offense, or if the defendant, as a minor,  
8 was found to have committed or pled guilty or nolo contendere  
9 to committing the offense as a delinquent act. The court may  
10 only order sealing of a criminal history record pertaining to  
11 one arrest or one incident of alleged criminal activity,  
12 except as provided in this section. The court may, at its sole  
13 discretion, order the sealing of a criminal history record  
14 pertaining to more than one arrest if the additional arrests  
15 directly relate to the original arrest. If the court intends  
16 to order the sealing of records pertaining to such additional  
17 arrests, such intent must be specified in the order. A  
18 criminal justice agency may not seal any record pertaining to  
19 such additional arrests if the order to seal does not  
20 articulate the intention of the court to seal records  
21 pertaining to more than one arrest. This section does not  
22 prevent the court from ordering the sealing of only a portion  
23 of a criminal history record pertaining to one arrest or one  
24 incident of alleged criminal activity. Notwithstanding any law  
25 to the contrary, a criminal justice agency may comply with  
26 laws, court orders, and official requests of other  
27 jurisdictions relating to sealing, correction, or confidential  
28 handling of criminal history records or information derived  
29 therefrom. This section does not confer any right to the  
30 sealing of any criminal history record, and any request for  
31 sealing a criminal history record may be denied at the sole

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1 discretion of the court.

2 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A  
3 criminal history record of a minor or an adult which is  
4 ordered sealed by a court of competent jurisdiction pursuant  
5 to this section is confidential and exempt from the provisions  
6 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
7 and is available only to the person who is the subject of the  
8 record, to the subject's attorney, to criminal justice  
9 agencies for their respective criminal justice purposes, or to  
10 those entities set forth in subparagraphs (a)1., 4., 5., and  
11 6. for their respective licensing and employment purposes.

12 (a) The subject of a criminal history record sealed  
13 under this section or under other provisions of law, including  
14 former s. 893.14, former s. 901.33, and former s. 943.058, may  
15 lawfully deny or fail to acknowledge the arrests covered by  
16 the sealed record, except when the subject of the record:

- 17 1. Is a candidate for employment with a criminal  
18 justice agency;
- 19 2. Is a defendant in a criminal prosecution;
- 20 3. Concurrently or subsequently petitions for relief  
21 under this section or s. 943.0585;
- 22 4. Is a candidate for admission to The Florida Bar;
- 23 5. Is seeking to be employed or licensed by or to  
24 contract with the Department of Children and Family Services  
25 or the Department of Juvenile Justice or to be employed or  
26 used by such contractor or licensee in a sensitive position  
27 having direct contact with children, the developmentally  
28 disabled, the aged, or the elderly as provided in s.  
29 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.  
30 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
31 415.103, s. 985.407, or chapter 400; ~~or~~

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1           6. Is seeking to be employed or licensed by or to  
2 contract with the Department of Health or to be employed or  
3 used by such contractor or licensee in a sensitive position  
4 having direct contact with children, the developmentally  
5 disabled, the aged, or the elderly as provided in s.  
6 110.1127(3), s.393.063(15), s. 394.4572(1), s. 397.451, s.  
7 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.  
8 415.1075(4), s. 985.407, or chapter 400; or

9           ~~7.6.~~ Is seeking to be employed or licensed by the  
10 Office of Teacher Education, Certification, Staff Development,  
11 and Professional Practices of the Department of Education, any  
12 district school board, or any local governmental entity which  
13 licenses child care facilities.

14  
15 (Renumber subsequent sections)

16  
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18 ===== T I T L E    A M E N D M E N T =====

19 And the title is amended as follows:

20           On page 1, line 18, after "repeal;"

21  
22 insert:

23           amending s. 943.059, F.S.; providing sealed  
24           criminal history records to the department  
25           under certain circumstances;